

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

LIFELINK PHARMACEUTICALS, INC.,)	Case No. 5:07-CV-785
)	
Plaintiff,)	JUDGE JAMES S. GWIN
)	
v.)	MAGISTRATE JUDGE GALLAS
)	
NDA CONSULTING, INC., et al.)	
)	
Defendants.)	

PLAINTIFF'S REPLY TO THE COUNTERCLAIM
OF DEFENDANTS WELLNESS INDUSTRIES, INC.,
AND MINERAL SCIENCES, LLC
(JURY DEMAND ENDORSED HEREON)

Plaintiff Lifelink Pharmaceuticals, Inc. ("Plaintiff"), by and through its undersigned counsel, for its Reply to the Counterclaim (**Docket No. 162**) of Defendants Wellness Industries, Inc. and Mineral Sciences, LLC (collectively, "Defendants"), hereby states as follows:

1. Plaintiff denies the allegations of paragraph 1 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.
2. Plaintiff denies the allegations of paragraph 2 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.
3. Admitted.
4. Admitted.
5. Responding to the allegations of paragraph 5 of the Counterclaim, Plaintiff states that the application for the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 5 of the Counterclaim.

6. Responding to the allegations of paragraph 6 of the Counterclaim, Plaintiff admits that certain studies were conducted, and that such studies lasted a total of approximately seven weeks. Plaintiff denies the remaining allegations of paragraph 6 of the Counterclaim.

7. Denied.

8. Plaintiff denies the allegations of paragraph 8 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

9. Denied.

10. Denied.

11. Plaintiff denies the allegations of paragraph 11 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

12. Plaintiff denies the allegations of paragraph 12 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

13. Plaintiff denies the allegations of paragraph 13 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

14. Plaintiff denies the allegations of paragraph 14 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

15. Plaintiff denies the allegations of paragraph 15 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

16. Responding to the allegations of paragraph 16 of the Counterclaim, Plaintiff states that the deposition testimony of the inventor speaks for itself. Plaintiff denies the remaining allegations of paragraph 16 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

17. Plaintiff denies the allegations of paragraph 17 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

18. Plaintiff denies the allegations of paragraph 18 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

19. Denied.

20. Plaintiff denies the allegations of paragraph 20 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

21. Plaintiff denies the allegations of paragraph 21 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

22. Plaintiff denies the allegations of paragraph 22 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

23. Plaintiff denies the allegations of paragraph 23 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

24. Plaintiff denies the allegations of paragraph 24 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

25. Responding to the allegations of paragraph 25 of the Counterclaim, Plaintiff states that the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 25 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

26. Plaintiff denies the allegations of paragraph 26 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

27. Responding to the allegations of paragraph 27 of the Counterclaim, Plaintiff denies the allegation of inequitable conduct. Plaintiff denies the remaining allegations of paragraph 27 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

28. Responding to the allegations of paragraph 28 of the Counterclaim, Plaintiff denies the allegation of inequitable conduct. Plaintiff denies the remaining allegations of paragraph 28 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

29. Denied.

30. Denied.

31. Responding to the allegations of paragraph 31 of the Counterclaim, Plaintiff states that the application for the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 31 of the Counterclaim.

32. Admit.

33. Admit.

34. Admit.

35. Responding to the allegations of paragraph 35 of the Counterclaim, Plaintiff states that the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 35 of the Counterclaim.

36. Responding to the allegations of paragraph 36 of the Counterclaim, Plaintiff admits that the inventor and/or his patent attorney had a duty to not misrepresent certain facts in the application process. Plaintiff denies the remaining allegations of paragraph 36 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

37. Denied.

38. Denied.

39. Responding to the allegations of paragraph 39 of the Counterclaim, Plaintiff states that the application for the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of

paragraph 39 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

40. Responding to the allegations of paragraph 40 of the Counterclaim, Plaintiff states that the application for the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 40 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

41. Responding to the allegations of paragraph 41 of the Counterclaim, Plaintiff states that the application for the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 41 of the Counterclaim.

42. Responding to the allegations of paragraph 42 of the Counterclaim, Plaintiff states that the application for the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 42 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

43. Responding to the allegations of paragraph 43 of the Counterclaim, Plaintiff states that the application for the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 43 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

44. Responding to the allegations of paragraph 44 of the Counterclaim, Plaintiff states that the application for the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 44 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

45. Responding to the allegations of paragraph 45 of the Counterclaim, Plaintiff states that the application for the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of

paragraph 45 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

46. Responding to the allegations of paragraph 46 of the Counterclaim, Plaintiff states that the application for the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 46 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

47. Denied.

48. Responding to the allegations of paragraph 48 of the Counterclaim, Plaintiff states that the '045 Patent speaks for itself. Plaintiff denies the remaining allegations of paragraph 48 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

49. Denied.

50. Denied.

51. Admitted.

52. Admitted.

53. Admitted.

54. Denied.

55. Responding to the allegations of paragraph 55 of the Counterclaim, Plaintiff admits that the license agreement at issue was dated as of March 4, 2004. Plaintiff denies the remaining allegations of paragraph 55 of the Counterclaim.

56. Denied.

57. Denied.

58. Admitted.

59. Denied.

60. Denied.

61. Admitted.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

66. Denied.

Count I – Declaratory Judgment

67. Plaintiff incorporates its answers to paragraphs 1 through 66 above as if set forth fully herein as its answer to paragraph 67 of the Counterclaim.

68. Plaintiff denies the allegations of paragraph 68 of the Counterclaim for want of knowledge or information sufficient to form a belief thereto.

69. Denied.

70. Denied.

71. Plaintiff denies each and every allegation in the Counterclaim not hereinabove specifically admitted, denied or otherwise controverted.

ADDITIONAL DEFENSES

72. The Counterclaim fails to state a claim against Plaintiff upon which relief can be granted.

73. Defendants' claims may be barred, in whole or in part, by the applicable statutes of limitations.

74. Defendants' claims may be barred, in whole or in part, by the doctrines of laches and/or release and/or waiver and/or estoppel.

75. Any omissions in the application for the '045 Patent were not material or relevant in connection with the determination of the patentability of the patented substance and/or process.

76. Defendants have not sustained any damages as a result of any act or omission on the part of the Plaintiff.

77. Plaintiff reserves the right to raise additional defenses as they become known during the course of discovery.

WHEREFORE, having fully replied, Plaintiff requests that judgment be entered in its favor in accordance with the prayer set forth in its Second Amended Complaint; that Defendants' Counterclaim be dismissed with prejudice, at Defendants' cost; that the Court award Plaintiff its costs, including reasonable attorney's fees herein; and that the Court enter such additional relief as may be deemed just and equitable.

Respectfully submitted,

s/ Stephen D. Dodd
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*Attorneys for Plaintiff
Lifelink Pharmaceuticals, Inc.*

JURY DEMAND

Plaintiff hereby demands a trial by jury, by the maximum number of jurors allowed by law, on all issues so triable.

s/ Stephen D. Dodd
Stephen D. Dodd

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2007, a copy of the foregoing Reply was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Stephen D. Dodd
Stephen D. Dodd